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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91221256
Party	Defendant Matter and Form Inc.
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Date	09/25/2015
Attachments	Answer to Notice of Opposition.pdf(25236 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Trademark Application Serial No. 86/295,070
Filed on May 29, 2014
For the mark MATTER AND FORM
Published: November 25, 2014

FORM & MATTER LLC,

Opposer,

v.

MATTER AND FORM INC.,

Applicant.

Opposition No.: 91221256

ANSWER TO NOTICE OF OPPOSITION

Applicant Matter and Form Inc. (“Applicant”) hereby answers the Notice of Opposition; admits that Applicant, a corporation formed in Canada, filed Application Registration Serial No. 86/295,070 (“Application”) on May 29, 2014 for at least the services cited by Opposer Form & Matter LLC (“Opposer”) in the preamble to the Notice of Opposition; Applicant denies that Opposer will be damaged by registration of the MATTER AND FORM mark in the Application; and Applicant denies all other allegations in the preamble to the Notice of Opposition for lack of knowledge or information sufficient to form a belief about the truth of those allegations.

1. Applicant denies all allegations in Paragraph 1 of the Notice of Opposition for lack of knowledge or information sufficient to form a belief about the truth of those allegations.

2. Applicant denies all allegations in Paragraph 2 of the Notice of Opposition for lack of knowledge or information sufficient to form a belief about the truth of those allegations.

3. Applicant denies all allegations in Paragraph 3 of the Notice of Opposition for lack of knowledge or information sufficient to form a belief about the truth of those allegations.

4. Applicant admits that the applications related to U.S. Trademark Registrations Nos. 4,659,862; 4,679,192 and 4,641,485 were filed prior to the Application. Applicant denies all other allegations in Paragraph 4 of the Notice of Opposition for lack of knowledge or information sufficient to form a belief about the truth of those allegations.

5. Applicant denies all allegations in Paragraph 5 of the Notice of Opposition for lack of knowledge or information sufficient to form a belief about the truth of those allegations.

6. Applicant denies all allegations in Paragraph 6 of the Notice of Opposition for lack of knowledge or information sufficient to form a belief about the truth of those allegations.

7. Applicant denies all allegations in Paragraph 7 of the Notice of Opposition for lack of knowledge or information sufficient to form a belief about the truth of those allegations.

8. Applicant admits all allegations in Paragraph 8 of the Notice of Opposition.

9. Applicant admits that the Application was filed in the International Classes indicated in Paragraph 9 of the Notice of Opposition. Applicant denies that the goods and services listed in Paragraph 9 of the Notice of Opposition are the goods and services listed in the Application. Applicant denies all other allegations in Paragraph 9 of the Notice of Opposition for lack of knowledge or information sufficient to form a belief about the truth of those allegations.

10. Applicant denies all allegations in Paragraph 10 of the Notice of Opposition for lack of knowledge or information sufficient to form a belief about the truth of those allegations.

11. Applicant denies all allegations in Paragraph 11 of the Notice of Opposition.

12. Applicant denies all allegations in Paragraph 12 of the Notice of Opposition for lack of knowledge or information sufficient to form a belief about the truth of those allegations.

13. Applicant denies all allegations in Paragraph 13 of the Notice of Opposition for lack of knowledge or information sufficient to form a belief about the truth of those allegations.

14. Applicant denies all allegations in Paragraph 14 of the Notice of Opposition for lack of knowledge or information sufficient to form a belief about the truth of those allegations.

15. Applicant denies all allegations in Paragraph 15 of the Notice of Opposition for lack of knowledge or information sufficient to form a belief about the truth of those allegations.

16. Applicant denies all allegations in Paragraph 16 of the Notice of Opposition.

17. Applicant denies all allegations in Paragraph 17 of the Notice of Opposition.

18. Applicant denies all allegations in Paragraph 18 of the Notice of Opposition.

19. Applicant denies all allegations in Paragraph 19 of the Notice of Opposition for lack of knowledge or information sufficient to form a belief about the truth of those allegations.

20. Applicant denies all allegations in Paragraph 20 of the Notice of Opposition for lack of knowledge or information sufficient to form a belief about the truth of those allegations.

21. Applicant denies all allegations in Paragraph 21 of the Notice of Opposition.

22. Applicant denies all allegations in Paragraph 22 of the Notice of Opposition.

23. Applicant denies all allegations in Paragraph 23 of the Notice of Opposition.

24. Applicant denies all allegations in Paragraph 24 of the Notice of Opposition.

25. Applicant denies all allegations in Paragraph 25 of the Notice of Opposition.

26. Applicant denies all allegations in Paragraph 26 of the Notice of Opposition for lack of knowledge or information sufficient to form a belief about the truth of those allegations.

27. Applicant denies all allegations in Paragraph 27 of the Notice of Opposition for lack of knowledge or information sufficient to form a belief about the truth of those allegations.

28. Applicant denies all allegations in Paragraph 28 of the Notice of Opposition.

29. Applicant admits the Application was signed by Paul Banwatt, whose position was indicated as “General Counsel”. Applicant denies all other allegations in Paragraph 29 of the Notice of Opposition.

30. Applicant denies all allegations in Paragraph 30 of the Notice of Opposition.

31. Applicant denies all allegations in Paragraph 31 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

1. The likelihood of confusion factors of *In re E.I. DuPont de Nemours & Co.*, 476 F. 2d 1357, 177 USPQ 563 (C.C.P.A. 1973) do not support a finding of likelihood of confusion.

2. The elements for dilution, including, but not limited to, the lack of fame of Opposer’s mark, are absent.

3. The Application was signed by a person properly authorized to sign on behalf of Applicant pursuant to the Trademark Laws of the United States.

4. Applicant began to use Applicant’s mark and trade name before Opposer began to use Opposer’s mark.

5. Opposer did not oppose the registration of Applicant's mark in International Class 9, therefore there is no controversy concerning the registration of Applicant's mark for the goods in International Class 9.

WHEREFORE, Applicant prays that this Opposition be dismissed, that the Notice of Allowance be issued for the mark in the Application and that the Applicant's mark become registered.

Respectfully submitted,

/s/ Patricia A. Walker

Patricia A. Walker (Ohio Reg. No. 0001779)

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CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of September, 2015 I caused the foregoing Answer to Notice of Opposition to be mailed by First Class U.S. mail and sent via e-mail to the following attorney for Opposer.

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/s/ Patricia A. Walker

Patricia A. Walker